

## Message Text

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ACTION OES-07

INFO OCT-01 EA-12 ISO-00 EPA-04 COME-00 EB-08 TRSE-00  
CIAE-00 INR-10 NSAE-00 CEQ-01 L-03 /046 W  
-----123784 190840Z /12  
R 190823Z JUN 78  
FM AMEMBASSY TOKYO  
TO SECSTATE WASHDC 8933

UNCLAS TOKYO 11122

FOR OES/ENP/EN

DEPT. PASS TO EPA

E.O. 11652: N/A  
TAGS: SENV, JA  
SUBJECT: THE POLLUTER-PAYS PRINCIPLE--JAPANESE  
ACCOMMODATION

1. OVER THE PAST SEVERAL WEEKS IT HAS BECOME INCREASINGLY CLEAR THAT THE GOJ AND KUMAMOTO PREFECTURE AUTHORITIES HAVE DETERMINED THAT IT WOULD NOT BE IN THE BEST INTERESTS OF THE COUNTRY IF CHISSO CORPORATION (THE PRIVATE COMPANY RESPONSIBLE FOR DISCHARGES OF MERCURY TO THE ENVIRONMENT WHICH LED TO THE NOW FAMOUS CASES OF MINAMATA DISEASE, OR ORGANIC MERCURY POISONING) WERE TO BE PERMITTED TO GO BANKRUPT BECAUSE OF PAYMENT OF COMPENSATION TO MINAMATA DISEASE VICTIMS.

2. IN COMPROMISE WORKED OUT BETWEEN PREFECTURAL AND NATIONAL GOVERNMENTS, KUMAMOTO PREFECTURE IS TO SELL BONDS TO THE PUBLIC TO OBTAIN SUFFICIENT REVENUE TO MAKE LONG-TERM LOAN TO CHISSO. REPAYMENT OF BONDS WILL BE GUARANTEED BY NATIONAL GOVERNMENT. WITHOUT SUCH FINANCIAL ASSISTANCE, CHISSO ALMOST CERTAINLY WOULD BE DECLARED BANKRUPT, SINCE IT INCURRED A LOSS OF  
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ABOUT 33 BILLION YEN (ABOUT \$153 MILLION AT PRESENT CONVERSION RATE) DUE TO COMPENSATION PAYMENTS.

3. SIGNIFICANCE OF ASSUMPTION OF CHISSO'S FINANCIAL BURDEN BY PREFECTURE AND NATIONAL GOVERNMENTS HAS NOT BEEN LOST TO PUBLIC, AND THERE WILL BE PRESSURES TO INSURE THAT CHISSO CASE DOES NOT SET PRECEDENT FOR OTHER

INDUSTRIAL POLLUTERS. JAPAN HAS DEVELOPED EXTENSIVE  
SYSTEM OF REVENUE COLLECTION FROM COMPANIES WHICH FAIL  
TO MEET POLLUTION STANDARDS, AND EMPLOYES FUNDS TO PAY  
COMPENSATION TO THOSE MEMBERS OF PUBLIC WHO CAN PROVE  
ENVIRONMENTAL INJURY OR WHO ARE ASSUMED TO BE INCURRING  
INJURY ON THE BASIS OF SCIENTIFIC EVIDENCE. PERHAPS  
CHISSO CASE IS JUSTIFIED AS EXCEPTION, SINCE THERE WAS  
NO ENVIRONMENTAL STANDARD IN JAPAN FOR MERCURY DISCHARGES  
AT TIME OF THE DISCHARGES FROM THE CHISSO PLANT, THERE  
WAS ESSENTIALLY NO SCIENTIFIC KNOWLEDGE OF FACT THAT  
INORGANIC MERCURY COULD BE CONVERTED TO ORGANIC MERCURY  
IN THE NATURAL ENVIRONMENT AND THEN TAKEN INTO THE  
BIOSPHERE, AND THE COURT DECISION AGAINST CHISSO LEADING  
TO THE PAYMENT OF COMPENSATION WAS STRICTLY BASED ON  
FINDING OF MORAL LIABILITY RATHER THAN VIOLATION OF  
LAW. THUS THE POLLUTER-PAYS PRINCIPLE APPEARS TO HAVE  
BEEN MODIFIED TO SOME EXTENT IN THIS MATTER,  
BUT NOT SO MUCH THAT CHISSO WILL BE FREED OF ITS  
LEGAL DEBT. MANSFIELD

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NNN

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 jan 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** POLLUTION, COMPENSATION  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 19 jun 1978  
**Decaption Date:** 01 jan 1960  
**Decaption Note:**  
**Disposition Action:** n/a  
**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:**  
**Disposition Date:** 01 jan 1960  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
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**Document Number:** 1978TOKYO11122  
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**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Expiration:**  
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**Subject:** THE POLLUTER-PAYS PRINCIPLE--JAPANESE ACCOMMODATION  
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**Review Markings:**  
Sheryl P. Walter  
Declassified/Released  
US Department of State  
EO Systematic Review  
20 Mar 2014  
**Markings:** Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014